When title VII was drafted, Congress consciously used the 180-day period because they wanted to ensure that all claims of employment discrimination were raised immediately and remedied quickly—get the relief to the person right away. However, what happens if the victim does not know he or she has been discriminated against? There are a lot of possible examples of this. Suppose an individual who is a member of a racial minority applies but is not selected for a job bid or a promotion yet learns, more than 180 days after being denied the job, that it was awarded to a White applicant with the same or lesser qualifications? Or suppose a female worker receives a wage increase but does not learn until well beyond 180 days from when she gets the wage increase that she has received less than her male peers? She may not know she is being compensated less because her employer has intentionally hidden those facts or simply because employees may simply not know such information. In either case, the result is the same—the employee, through no fault of his or her own, simply does not know they may be the victim of discrimination until well beyond the 180 days from the time they received their wage increase or lose their job bid.

Let us be completely clear. I do not believe there is anyone who believes an employee in any of those or similar circumstances should lose the right to file a discrimination claim because they did not have the necessary facts and did not have any reason to know they were being discriminated against before the 180 days passed. This was precisely the problem that S. 181, the Ledbetter bill, was allegedly designed to address. If that were actually the case, I would vote for the Ledbetter bill. But the Ledbetter bill goes way beyond addressing the kind of situations I have outlined here—so far beyond that it creates new problems that make supporting it impossible for me and many other fair-minded Members.

By contrast, the Hutchison bill directly addresses and solves the very problems I have outlined. Under the Hutchison bill, the denied job applicant who did not learn the facts until long after his bid was denied or the female worker who did not know her wage differential compared to her male peers, either because of conscious concealment or simple lack of information, are not prevented from filing and pursuing their discrimination claim, even if it is well beyond the 180 days from when they got the raise or did not get the job. The Hutchison bill does this by making the 180-day period a flexible one that can be readily extended in the kind of cases I have mentioned.

On the other hand, the Ledbetter bill does this by eliminating the 180-day limitation period completely. The Hutchison bill is a rifle shot to solve a problem that everyone agrees must be solved. The Ledbetter bill is a shotgun blast that causes collateral damage to important safeguards in our system of laws.

Limitation periods, such as the 180-day period for Title VII employment discrimination claims, are a feature in every law that grants the right to someone to bring a legal action against someone else. They are universal because such limitations serve two very important purposes.

First, the existence of a limitations period is an inducement to those who have claims to seek redress promptly. All of us have an interest in a society where the laws are promptly enforced and, where the beneficiaries of those laws are promptly protected and promptly compensated. This is particularly true in the area of discrimination where society benefits best when discrimination is immediately exposed and immediately remedied. It may affect more than just the one person.

Second, limitations periods serve to ensure fairness in our litigation process. The simple truth is that the more removed in time an event is, the less likely anyone is to remember it clearly or accurately. In a work setting, those who made compensation decisions 5, 10, 20 years ago, may no longer be around. And even if they are around, how could they possibly remember with any accuracy the basis for the decisions? Under our Tax Code, records are not kept nearly that long for individuals or for businesses.

The inability to fairly defend against a claim and the inability to develop reliable evidence are the exact reasons why laws invariably contain a limitations period. Limitations periods are why someone cannot come along and try to sue you over an automobile accident that took place 20 years ago, or commence a legal action to take your house away because of a claimed defect in the title that is decades old, and why the Government cannot pursue actions against citizens that have become stale with time.

But S. 181 would do away with such limitation periods in employment discrimination cases and allow individuals to reach back in time to raise claims about which there is no fair chance to defend, no evidence of any value, and possibly nobody who was even there. We do not have to do this to address the concerns raised by the proponents of S. 181. Senator HUTCHISON's bill addresses those concerns completely.

S. 181 has a number of other problems which will be explained by my colleagues as we proceed to this bill, such as the potential to severely destabilize defined benefit pension plans and the expansion of individuals with standing to sue under civil rights laws. These are normally the kind of discussions we would have in the committee of jurisdiction, which in this case would be the Health, Education, Labor, and Pensions Committee, where our members and staff are well-versed in employment laws. However, the majority's actions will require us to have those discussions on this floor. It is not the way I want to do it, and it is not the way the American people expect us to do business, and it is not the way we will get things done.

Now, on this bill a vast number of people voted to proceed to the bill, and we all waived the 30 hours that could have been required before we could even make the first amendment. It was a nice concession on both sides; speeds up the process. But there are a number of opportunities—if the process were to get jammed—that huge hours can be added to the deliberations on this bill that do not need to be, that would not have been, probably, had it gone through the committee amendment process.

I just cannot emphasize enough how important that is to me. I made sure it happened when we were in the majority. I am hoping it will happen on future bills while I am in the minority. Cooperation around here gets a lot more done, and that is what the American people expect of us.

I yield the floor.

Mr. SANDERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATION FROM SENATOR HILLARY RODHAM CLINTON

The PRESIDING OFFICER. The Chair lays before the Senate the following communication.

The assistant legislative clerk read as follows:

U.S. SENATE,
Washington, DC, January 21, 2009.

Hon. JOSEPH R. BIDEN, Jr.
President, U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR MR. VICE PRESIDENT: This letter is to inform you that I resign my seat in the United States Senate effective immediately in order to assume my duties as Secretary of State of the United States.

Sincerely yours,

HILLARY RODHAM CLINTON.

MORNING BUSINESS

THE INAUGURATION OF PRESIDENT OBAMA

Mr. MCCONNELL. Mr. President, yesterday the Nation and the world witnessed the peaceful transfer of power from one President to the next.

While this now seems normal and fair, the idea that a head of state would relinquish his power willingly amazed many when George Washington willingly stepped down as commander-in-chief.

Two centuries later, that idea serves as one of the strongest principles of our democracy.

I congratulate President Obama, Vice President BIDEN, and their families.